

September 23, 2010

Mr. Kirkpatrick called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m. He read the Sunshine Statement.

Members Present: Mr. Walchuk (absent for roll call), Mr. Nace, Mrs. Corcoran,
Mr. Badenhausen, Mr. Ryland, Mr. Taibi, Mr. Kastrud, Mr. Ford
Mr. Kirkpatrick

Members Absent: Mr. Severino, Mr. Bischoff

Others Present: Atty. Mark Anderson, Robert Clerico, Atty. Scott Carlson

Approval of Minutes: Mrs. Corcoran made a motion to approve the minutes of the August 26, 2010 meeting, as amended. Mr. Ford seconded the motion.

Ayes: Mrs. Corcoran, Mr. Ford, Mr. Nace, Mr. Badenhausen, Mr. Ryland
Mr. Taibi, Mr. Kirkpatrick

Abstain: Mr. Walchuk, Mr. Kastrud

**Issue of Completeness: Pilot Travel Centers LLC: Block 11, Lot 24.03,
68 Route 173 West**

Atty. Scott Carlson said Pilot had filed an application requesting an increase in water usage from that which was approved in November 2008. Mr. Carlson said he had briefly reviewed Vincent Uhl's response letter dated September 14, 2010 with Pilot's Hydrogeologist regarding the request for an increase in water usage. Mr. Uhl requested additional information. Atty. Carlson thought it would be beneficial if Pilot's Hydrogeologist and Mr. Uhl meet to review additional requirements. Messrs. Kirkpatrick and Ford were amenable. There was no objection from any Board member.

Atty. Carlson stated he had not sent copies of the above-mentioned application to the Hunterdon County Planning Board, Board of Health and the Pattenburg Fire Chief. He was advised to do so by the Board Chairman. Mr. Ford had a question about Atty. Carlson's September 10, 2010 letter asking that the limitation on water usage be removed. Mr. Ford asked if it was not the intention to raise the limitation. Atty. Carlson said he did not know if it was the practice of the Board to place limitations on developments. Mr. Kirkpatrick said eliminating or placing a higher limit was considered during the testimony, and depended upon information from the Board's expert. Mr. Carlson said he had nothing further.

Mr. Ford made a motion to deem the application complete, contingent on discussions with Pilot's representatives and the Board's Hydrogeologist. Mr. Walchuk seconded the motion.

Vote: Ayes: Mr. Ford, Mr. Walchuk, Mr. Nace, Mrs. Corcoran, Mr. Badenhausen,
Mr. Ryland, Mr. Taibi, Mr. Kastrud, Mr. Kirkpatrick

Mr. Kirkpatrick asked Atty. Carlson if he understood that Pilot was still deficient on some site-plan issues. Mr. Carlson asked "Specifically", what issues? Mr. Kirkpatrick said the anti-idling plan that was due by December 2009.

Atty. Carlson said the boulders had been installed and some had been moved. Pilot's Traffic Engineer made an inspection to ascertain why. Mr. Kirkpatrick said if they were moved they were either not big enough or not properly installed. He said the boulders were to have been buried deep enough to ensure they would be immovable. Atty. Carlson said the issue would be revisited and resolved.

The Hearing would be scheduled after Pilot's representatives and Mr. Uhl have met and Mr. Uhl had made a recommendation on what is necessary to proceed with the Public Hearing of the application for increased water usage.

Fallone: Block 22, Lot 34, Perryville Road: Request for Extension: The matter will be carried until the October 28, 2010 meeting.

Jutland Convenience Store: Block 13, Lot 11.01, 169 Perryville Road: A brief discussion was held about the application and the issue of completeness. Atty. Anderson said the prudent course would be for the Planning Board to dismiss the application without prejudice. Mr. Anderson said the Board could make the recommendation that applicant not be required to pay new application fees within a period of time that the Board considered reasonable. Mr. Kirkpatrick suggested making a motion with a waiver of submitting a new application fee, if a submission is made within the next sixty days.

Mrs. Corcoran made the motion to dismiss, without prejudice, and with no new fee, as long as a submission is made within sixty days. Mr. Badenhause seconded the motion. Vote: No opposition from any Board member.

Correspondence: Mr. Kirkpatrick mentioned the letter from the Township Committee regarding the Renewable Energy Ordinance. He asked that Board members submit comments on the Ordinance to Carl Hintz. It will be discussed at a future meeting when Mr. Hintz is required to attend.

Mr. Ford mentioned a letter from the NJDEP to the MBP Group, Block 12, Lot 8.03, Charlestown Road asking for additional information. The Board had granted a variance to construct a single-family house on the lot.

Comments from the Public: None

Other Discussion: Mr. Kirkpatrick mentioned a copy of an e-mail from UTEC Chairman Harclerode indicating he had been at the Pilot Site and observed a number of trucks idling. Mr. Harclerode reported the violation to enforcement.

As part of their Site Plan approval, Pilot had been required to prepare an anti-idling plan to eliminate truck idling on the site by December 2009. That date corresponded with the date that NJDEP's anti-idling plan would have taken place. The NJDEP has placed a stay on the plan, however, Pilot does have to comply with the Board's requirement to prepare the Plan. Mr. Kirkpatrick said the Zoning Official should determine the appropriate enforcement action. Pilot would be cited for anti-idling violations. Mr. Taibi asked if temperature had anything to do with the anti-idling plan. Mr. Kirkpatrick said it would be within the Board's discretion to allow idling at certain times. Pilot must, however, come up with a plan. Mr. Taibi said the plan would not have to say zero idling. Mr. Kirkpatrick said that was correct. Mrs. Corcoran questioned allowing any idling. Mr. Kirkpatrick said once more that he believed it was within the Board's discretion. Mrs. Corcoran understood it could be an amendment to the Resolution. Atty. Anderson indicated that was correct.

Mr. Kastrud asked if the matter should be opened to the Public since there was a great concern. Atty. Anderson indicated the Public always has the right to be heard. He said there would be no requirement for Public Notice. The Board does have the discretion to ask that Notice be given if they deem it appropriate. Mr. Kirkpatrick recalled that the Board condition was put in place as a safety valve in the event that the NJDEP Anti-Idling Regulations were not put into effect. The DEP Regulations allow idling during certain periods and certain types of trucks. Mr. Kirkpatrick felt that if Pilot's plan was relatively consistent with that of the DEP he did not see the need for input from the Public. Minor deviations from the site plan can be approved by the Chairman. Mr. Kirkpatrick said he would want the matter to come before the Board.

Mr. Badenhause commented favorably on the letter drafted by Atty. Anderson to the Township Committee regarding improvements to the Bridge at Exit 12. Mr. Taibi voiced a concern that Board members have not received any communications from the Township Committee as to contacts with State and Federal Agencies. Mrs. Corcoran concurred with Mr. Taibi. Mrs. Corcoran asked about the widening of the Bridge and it being consistent with the Master Plan (MP). She did not think there was anything about the Bridge in the MP. Atty. Anderson responded. He will revise the letter to state that widening of the Bridge would be consistent with a more desirable circulation pattern in the MP. Mr. Taibi reiterated his concern about Committee contact with Outside Agencies. He asked that the Committee approach the Agencies who have control over widening of the Bridge and inform them they want a response. The Committee would apprise the Board of Agency responses. .

There being no further business to come before the Board, a motion to adjourn was made by Mrs. Corcoran and seconded by Mr. Ryland. (7:45 p.m.)

Vote: All Ayes

Grace A. Kocher, Secretary